



BEFORE THE DISCIPLINARY COMMISSION  
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER )  
OF THE STATE BAR OF ARIZONA, ) Nos. 01-1968, 02-0441, 02-0875,  
 ) 02-1588, 02-1616  
 )  
RANDI S. SIRLIN, )  
Bar No. 015303 ) DISCIPLINARY COMMISSION  
 ) REPORT  
 )  
RESPONDENT. )

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on July 12, 2003, pursuant to Rule 56(a), Ariz. R. S. Ct., for consideration of the Tender of Admissions and Agreement for Discipline by Consent (Agreement) and Joint Memorandum in Support of Agreement for Discipline by Consent (Joint Memorandum), filed June 17, 2003, providing for a six month suspension, retroactive to September 18, 2002, two years of probation upon reinstatement with fee arbitration, the Member Assistance Program (MAP), and the Law Office Management Assistance Program (LOMAP), and costs of these disciplinary proceedings.

Decision

The nine<sup>1</sup> members of the Commission unanimously recommend accepting and incorporating by reference the Agreement and Joint Memorandum<sup>2</sup> providing for a six

<sup>1</sup> Commissioner Bowman did not participate in these proceedings. Larry W. Suci, a Hearing Officer from Yuma participated as an ad hoc member.

<sup>2</sup> The Joint Memorandum inadvertently refers to 9.32(h) in mitigation. The ABA *Standards* were amended in 1992, mental disability is now listed as 9.32(i); however, the parties agree that the four-pronged criteria has been met. See Joint Memorandum, p. 6.

month suspension retroactive to September 18, 2002, two years of probation upon  
reinstatement, and costs.<sup>3</sup> The terms of probation<sup>4</sup> are as follows:

- 1) Respondent will participate in fee arbitration if a satisfactory resolution regarding restitution is not reached with any of the clients listed in this Agreement.
- 2) The probation shall be subject to early termination after one year based upon the recommendation of MAP director or her designee.
- 3) Respondent has undergone a MAP assessment and shall enter into a Memorandum of Understanding to reflect the recommendations made in the assessment. The memorandum of understanding shall address the procedures to follow if it is alleged there has been a violation of the probation terms.
- 4) If Respondent returns to the practice of law in a capacity wherean she maintains an IOLTA she shall notify the State Bar of that occurrence and shall undergo a LOMAP assessment regarding her trust account and comply with the recommendations made by the LOMAP director or her designee.
- 5) In the event Respondent fails to comply with any of the foregoing terms and information thereof is received by the State Bar, bar counsel shall file a Notice of Non-Compliance with the Disciplinary Commission. The Disciplinary Commission may refer the matter to a hearing officer to conduct a hearing at the earliest possible date, but in no event later than thirty days following receipt of said notice. If the matter is referred to a hearing officer, the hearing officer shall determine whether the terms of probation have been breached, and if so, to recommend appropriate action and response to such breach.

<sup>3</sup> The issue on the approval of costs was raised for the first time at oral argument. With regard to Respondent's counsel's request to reduce costs based on the addition of conservatorship costs, the Commission refers to Rule 67(e) which specifically states "Costs and expenses of conservatorship proceedings shall be determined, assessed, and enforced as provided for in disciplinary proceedings." Therefore, the costs are recommended as submitted.

<sup>4</sup> The Commission adds the standard compliance language to the terms of probation. The parties inadvertently excluded it from the Agreement.

- 6) If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar to prove non-compliance by a preponderance of the evidence.

RESPECTFULLY SUBMITTED this 31<sup>st</sup> day of July 2003.

*Jessica Funkhouser*

Jessica G. Funkhouser, Chair  
Disciplinary Commission

Original filed with the Disciplinary Clerk  
this 31<sup>st</sup> day of July 2003.

Copy of the foregoing mailed  
this 31<sup>st</sup> day of July 2003 to:

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Copy of the foregoing hand-delivered  
this 31<sup>st</sup> day of July 2003 to:

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By *K. Weigand*

/kdl